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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,269	10/17/2001	Benoit Mory	PHFR 000110	7787
34055	7590	01/26/2005		
PERKINS COIE LLP POST OFFICE BOX 1208 SEATTLE, WA 98111-1208			EXAMINER	STEVENS, ROBERT
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,916	12/20/2001	Chirdeep Vittal	8856-04 (6950-60466)	9959
7590	07/29/2004			
Daniel D. Tagliaferri Coudert Brothers LLP Third Floor 600 Beach St. San Francisco, CA 94109			EXAMINER NGUYEN, CAO H	
			ART UNIT 2173	PAPER NUMBER
DATE MAILED: 07/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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JUL 29 2004  
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<b>Office Action Summary</b>	Application No. 10/027,916	Applicant(s) VITTEL ET AL.
	Examiner Cao (Kevin) Nguyen	Art Unit 2173

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(d).

#### Status

- 1)  Responsive to communication(s) filed on 20 October 2001.
- 2a)  This action is FINAL.                    2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 1-7 and 18-25 is/are allowed.
- 6)  Claim(s) 8-17 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

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#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All      b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 8-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Beine et al. (US Patent No. 6,701,087 B2).

Regarding claim 18, Beine discloses a method for adjusting signal power levels at an input to a selected component in a network element that forms part of an optical network, wherein the network element includes one or more circuit cards that define a signal path to the selected component, and the signal path includes at least one VOA, the method comprising steps of: computing calculated power parameters for the signal path [managing signal power in an optical network; see abstract and col. 7, lines 8-57]; obtaining measured power parameters at the input to the selected component; displaying the calculated and measured power parameters on a

user display; receiving a user input; and adjusting an attenuation factor of the at least one VOA, wherein the adjustment is based on the received user input, and wherein when the attenuation factor is adjusted, a selected input power is provided at the input to the selected circuit card [..the VOAs are located on selected cards within each network element and to monitor input and output signal.; see col. 8, lines 45-67].

Regarding claim 9, Beine discloses, wherein the selected component is an optical receiver card (see col. 4, lines 10-63).

Regarding claim 10, Beine discloses wherein the step of computing calculated power parameters includes a step of obtaining loss parameters associated with the one or more circuit cards (see col. 6, lines 10-28).

Regarding claim 11, Beine discloses wherein the step of computing calculated power parameters includes a step of obtaining the loss parameters associated with the one or more circuit cards via a local network that is coupled to the circuit cards (see col. 11, lines 10-57 and figures 3-6).

Regarding claim 12, Beine discloses wherein the step of computing calculated power parameters includes a step of obtaining the loss parameters associated with the one or more circuit cards via a local network that is coupled to the circuit cards, wherein the local network is an Ethernet network (see col. 4, lines 44-63 and figures 2).

Regarding claim 13, Beine discloses wherein the step of obtaining the measured power parameters is a step of obtaining the measured power parameters at the input to the selected component by coupling directly to the network element (see col. 13, lines 23-61).

Regarding claim 14, Beine discloses wherein the step of obtaining the measured power

parameters is a step of obtaining the measured power parameters at the input to the selected component via a network signaling channel (see col. 14, lines 1-53).

Regarding claim 15, Beine discloses further comprising a step of repeating the steps of obtaining and displaying after the step of adjusting (see col. 16, lines 9-59).

Regarding claim 16, Beine discloses wherein the step of obtaining is a step of obtaining measured power parameters at the input to a plurality of circuit cards including the selected component (see figures 12-14).

Regarding claim 13, Beine discloses wherein the step of adjusting is a step of adjusting an attenuation factor of the at least one VOA, wherein the adjustment is based on the received user input, and wherein when the attenuation factor is adjusted, a selected input power is provided at the input to one of the plurality of circuit cards (see figures 19-22).

*Allowable Subject Matter*

3. Claims 1-7 and 18-25 are allowed over the prior art.

*Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (see PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is 703-305-3972. The examiner can normally be reached on M-F: 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on 703-308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CAO (KEVIN N) GUYEN  
PRIMARY EXAMINER

07/10/04